

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

| | | |
|----------------------------|---|-------------------------|
| MARTIN LOOR-ORDONEZ, | : | |
| | : | Civil Action No. |
| Plaintiff, | : | |
| v. | : | |
| | : | |
| BJ'S WHOLESALE CLUB, INC., | : | |
| AND JOHN DOE I-III | : | |
| | : | |
| Defendants. | : | |
| | : | |
| | : | |

DEFENDANT BJ'S WHOLESALE CLUB, INC.'S
NOTICE OF REMOVAL

Defendant BJ's Wholesale Club, Inc. (hereinafter referred to as "BJ's" or "Defendant") files this Notice of Removal pursuant to 28 U.S.C. §1441(a) and (b) to remove this action from the Superior Court of New Jersey, Law Division, Hudson County, where it is now pending, to the United States District Court for the District of New Jersey. Defendant, in support thereof, states as follows:

1. A Civil Action has been brought against Defendant by the Plaintiff Martin Loor Ordonez (hereinafter referred to as “Plaintiff”) and is pending in the Superior Court of New Jersey, Law Division, Hudson County, docket number HUD-L-002028-22. A copy of Plaintiff’s Complaint is attached hereto as Exhibit “A”.
2. The State Court wherein this action was originally filed is located in Hudson County, New Jersey, which is embraced within this jurisdictional district.
3. Removal from the Superior Court of New Jersey Law Division, Hudson County is proper under 28 U.S.C. §§1441(a) and (b), which authorizes the removal of any civil action of which the District Courts of the United States has original jurisdiction and if “none of the

parties in interest properly joined and served as a defendant is a citizen of the state in which such action is brought.” (emphasis added).

4. This Court has original jurisdiction over the subject matter under 28 U.S.C. §1332 as the parties in interest properly joined and served are citizens of different states, and the matter in controversy exceeds \$75,000.00 as set forth below.
5. Specifically, in the alleged accident that is the subject of Plaintiff’s Complaint, Plaintiff claims that on July 4, 2020, as a result of the negligence of the Defendant, he was caused to sustain serious injury causing [him] to suffer great pain and will in the future be caused to suffer great pain; [he] was caused to incur medical expenses and will in the future be caused to incur medical expenses, [and he] was caused to suffer permanent injury.” See Exhibit “A”, Count One, ¶6.
6. Plaintiff also demands judgment against Defendant, for damages, pain of suffering and infliction of emotional distress, together with attorney’s fees, interest, costs of suit and any other relief the Court deems just and equitable.” See Exhibit “A”.
7. Further, Plaintiff’s counsel has relayed a demand of \$200,000.00 based on alleged surgery claims. Please see the attached correspondence dated July 18, 2022. See Exhibit “B”.
8. In addition, our office sent out a stipulation of damages to Plaintiff’s counsel requesting that Plaintiff stipulate as to \$75,000.00 in damages. To date, Plaintiff has not signed and returned same. See Exhibit C.
9. As such, based on the serious and permanent personal injury claims, including alleged surgery claims, significant medical treatment and lost earnings that Plaintiff claims have resulted from the negligence, carelessness and recklessness of Defendants, and the fact that Plaintiff has relayed a demand of \$200,000.00, it is Defendant’s position that this this Court’s jurisdictional threshold has been met.

10. Additionally, removal is proper as the parties are citizens of different states as Plaintiff is a citizen of New Jersey and Defendant BJ's Wholesale Club, Inc., is a Delaware corporation with a principal place of business in Massachusetts.
11. As such, based on the serious and permanent personal injury and economic damages claims that Plaintiff claims have resulted from the negligence and carelessness of Defendant and because Plaintiff has made a demand of \$200,000.00, it is Defendant's position that this Court's jurisdictional threshold limits have been met. See Exhibits "A", "B" "C" and "D."
12. This removal is also timely, as this case was filed on or about June 21, 2022, and was served or otherwise received by Defendant on or about the same date. This Notice of Removal is being timely filed within 30 days of service or receipt of the Complaint by Defendant, and within one year of the filing of the Complaint, pursuant to 28 U.S. Code § 1446.
13. Thus, Removal from the Superior Court of New Jersey, Law Division, Hudson County is proper under 28 U.S.C. §1441(a) and (b).
14. This Court has original jurisdiction over the subject matter under 28 U.S.C. §1332 as the parties are citizens of different states, and the matter in controversy exceeds \$75,000 as set forth above. Also, counsel for Defendant sent a proposed stipulation of damages in the amount of \$75,000.00, which has not been returned to date. Based on Plaintiff's claims for serious and permanent personal injuries, economic damages, significant medical treatment, as well as the fact that Plaintiff has relayed a demand of \$200,000.00, this Court does not have to guess as to whether Plaintiff is seeking an amount in excess of \$75,000.

15. Based on the foregoing, the requirements of 28 U.S.C. §1441(a) and (b), 1446 and 1332 have been satisfied and the within matter is properly removable.

WHEREFORE, Defendant BJ's Wholesale Club, Inc. respectfully requests that the State Action be removed from the Superior Court of New Jersey, Law Division, Hudson County to the United States District Court for the District of New Jersey.

Dated: July 19, 2022

BY: *s/John McConnell*

John M. McConnell, Esquire (028152006)

GOLDBERG SEGALLA LLP

301 Carnegie Center Drive,

Suite 200, Princeton, NJ 08540-

6587 609-986-1326

609-986-1301 - Fax

Attorneys for Defendant BJ's Wholesale Club, Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MARTIN LOOR ORDONEZ,

Plaintiff,

v.

BJ'S WHOLESALE CLUB, INC.,
AND JOHN DOES I-III.

Defendants.

:
: **Civil Action No.**
:
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:
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:

I, John M. McConnell, hereby certify that a true and correct copy of the foregoing Notice of Removal, and supporting documents, and Jury Demand were filed with the Court and served on all counsel of record via email on this 19th day of July 2022.

Dated: July 19, 2022

BY: s/ John McConnell

John M. McConnell, Esquire (028152006)

GOLDBERG SEGALLA LLP

301 Carnegie Center Drive,

Suite 200, Princeton, NJ 08540-

6587 609-986-1326

609-986-1301 - Fax

Attorneys for Defendant BJ's Wholesale
Club, Inc.

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

MAG. JUDGE

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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| MARTIN LOOR ORDONEZ, | : | |
| | : | Civil Action No. |
| Plaintiff, | : | |
| v. | : | |
| | : | |
| BJ'S WHOLESALE CLUB, INC., | : | |
| AND JOHN DOES I-III | : | |
| | : | |
| Defendants. | : | |
| | : | |
| | : | |

PLEASE TAKE NOTICE that the undersigned counsel hereby enters an appearance as counsel of record on behalf of Defendant BJ's Wholesale Club, Inc. in the above-entitled action.

PLEASE TAKE FURTHER NOTICE that copies of all papers served in this matter should be served upon the undersigned.

Dated: July 19, 2022

BY: s/ John M. McConnell
John M. McConnell, Esquire (028152006)
GOLDBERG SEGALLA LLP
301 Carnegie Center Drive,
Suite 200, Princeton, NJ 08540-
6587 609-986-1326
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Attorneys for Defendant BJ's Wholesale
Club, Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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| MARTIN LOOR ORDONEZ, | : | |
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| Plaintiff, | : | Civil Action No. |
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| BJ'S WHOLESALE CLUB, INC., | : | |
| AND JOHN DOES I-III | : | |
| | : | |
| Defendant | : | |
| | : | |
| | : | |

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 38, the Defendant BJ's Wholesale Club, Inc. hereby demands a Jury trial in this matter, on all issues triable by jury.

Dated: July 19, 2022

BY: s/ John M. McConnell
John M. McConnell, Esquire (028152006)
GOLDBERG SEGALLA LLP
301 Carnegie Center Drive,
Suite 200, Princeton, NJ 08540-
6587 609-986-1326
609-986-1301 - Fax
Attorneys for Defendant BJ's Wholesale
Club, Inc.

EXHIBIT A

Michael T. Valentino, Esq., ID#282862018
AGRAPIDIS & MAROULES, P.C.
777 Terrace Avenue - Suite 504
Hasbrouck Heights, New Jersey 07604
(201) 288-0500
ATTORNEYS FOR PLAINTIFF

Marlin Loor Ordonez,
Plaintiff,

V.

BJ's Wholesale,
AND JOHN DOE I-III,
Defendants.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: HUDSON COUNTY
: DOCKET NO.: HUD-L-

CIVIL ACTION

COMPLAINT AND JURY DEMAND

Plaintiff, Marlin Loor Ordonez, residing in the Town of Guttenberg, in the County of Hudson, and State of New Jersey, by way of Complaint against the defendants, hereby alleges and says:

FIRST COUNT

1. At all times hereinafter mentioned, plaintiff, Marlin Loor Ordonez, was a lawful invitee on premises located at 2100 88th Street, in the Township of North Bergen, County of Hudson, and State of New Jersey on July 4, 2020.

2. Upon information and belief, plaintiff, Marlin Loor Ordonez, fell due to a dangerous and hazardous condition, to wit, slipped and fell on wet floor on the property of BJ's Wholesale, located at 2100 88th Street, in the Township of North Bergen, County of Hudson, and State of New Jersey on July 4, 2020.

3. Upon information and belief, defendant, BJ's Wholesale, is responsible for maintenance and management of the premises located at 2100 88th Street, in the Township of North Bergen, County of Hudson, and State of New Jersey. The defendant is believed to be the owner of that property.

4. Upon information and belief, defendant, BJ's Wholesale, is responsible for the maintenance and management of the premises located at 2100 88th Street, in the Township of North Bergen, County of Hudson, and State of New Jersey. The defendant is believed to be the lessee of that property and/or owner of that property.

5. Upon information and belief, and in the alternative to the allegations in paragraphs 2, 3 & 4 above, the true name of capacity, whether individual, plural, corporate, partnership, associate or otherwise of defendants, JOHN DOE I-III, are unknown to plaintiff, who, therefore, brings suit against said defendant by such fictitious name. JOHN DOE I-III may be the true owner or operator or party responsible for the maintenance of the property located at 2100 88th Street, in the Township of North Bergen, County of Hudson, and State of New Jersey on July 4, 2020, and is responsible for any dangerous conditions on the premises, for the maintenance and repair of the premises and well-being of plaintiff, Marlin Loor Ordonez, but the full extent of those facts linking the fictitiously designated defendants with the cause of action alleged herein is unknown to plaintiff at this time.


6. As a direct and proximate result of the negligence of the defendants, BJ's Wholesale and John Doe I-III, its agents, servants, and/or employees, in the manner in which said premises were maintained and cleaned, the plaintiff, Marlin Loor Ordonez, was caused to fall and sustain serious injury causing her to suffer great pain and will in the future be caused to suffer great pain; she was caused to incur medical expenses and will in the future be caused to incur medical expenses; she was caused to suffer permanent injury.

7. Upon information and belief, defendants had actual and/or constructive notice of the dangerous condition described above and failed to remedy this dangerous condition, take precautionary steps to prevent the accident, or give notice to those in the area thereby breaching their duty of care to plaintiff.

WHEREFORE, the plaintiff, Marlin Loor Ordonez, demands judgment against the defendants, BJ's Wholesale and John Doe I-III, jointly and severally for damages, pain and suffering and infliction of emotional distress, together with attorney's fees, interest, costs of

suit and any other relief the Court deems just and equitable.

AGRAPIDIS & MAROULES, P.C.
Attorneys for Plaintiff

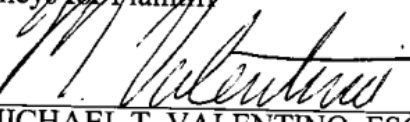
By: 
MICHAEL T. VALENTINO, ESQ.

DATED: June 21, 2022

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury as to all issues raised in the Complaint.

AGRAPIDIS & MAROULES, P.C.
Attorneys for Plaintiff

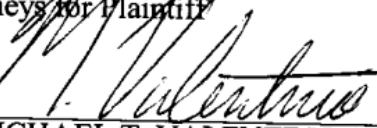
By: 
MICHAEL T. VALENTINO, ESQ.

DATED: June 21, 2022

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Michael T. Valentino, Esq., ID#282862018, is hereby designated as Trial Counsel of this matter.

AGRAPIDIS & MAROULES, P.C.
Attorneys for Plaintiff

By: 
MICHAEL T. VALENTINO, ESQ.

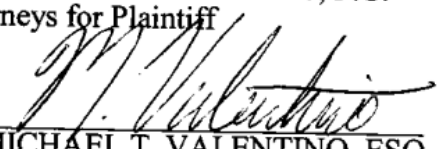
DATED: June 21, 2022

CERTIFICATION

I certify that pursuant to R. 4:5-1, to my knowledge and based on the information available to me at this time, the matter in controversy is not the subject of any other action pending in any Court, or of a pending arbitration proceeding and that no additional parties are known at this time who should be added.

AGRAPIDIS & MAROULES, P.C.
Attorneys for Plaintiff

By:


MICHAEL T. VALENTINO, ESQ.


DATED: June 21, 2022

DEMAND FOR ANSWERS TO INTERROGATORIES

Pursuant to R. 4:17-1(b), the plaintiff hereby demands that the defendant provide answers to the Uniform Interrogatories set forth in Form C and C(2) of Appendix II of the Rules Governing the Courts of the State of New Jersey.

AGRAPIDIS & MAROULES, P.C.
Attorneys for Plaintiff

By:


MICHAEL T. VALENTINO, ESQ.

DATED: June 21, 2022

HUD-L-002028-22 06/21/2022 3:20:26 PM Pg 1 of 1 Trans ID: LCV20222322417

Civil Case Information Statement

Case Details: HUDSON | Civil Part Docket# L-002028-22

Case Caption: LOOR ORDONEZ MARLIN VS BJ'S
WHOLESALE

Case Initiation Date: 06/21/2022

Attorney Name: MICHAEL THOMAS VALENTINO

Firm Name: AGRAPIDIS & MAROULES, PC

Address: 777 TERRACE AVE STE 504

HASBROUCK HGTS NJ 076040000

Phone: 2012880500

Name of Party: PLAINTIFF : Loor Ordonez, Marlin

Name of Defendant's Primary Insurance Company
(if known): Sedgwick

Case Type: PERSONAL INJURY

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: Marlin Loor Ordonez? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? YES

If yes, for what language:

SPANISH

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

06/21/2022
Dated

/s/ MICHAEL THOMAS VALENTINO
Signed

EXHIBIT B

Loor-**Ordonez** v. BJ's



McConnell, John M. <jmcmcconnell@goldbergsegalla.com> [in](#)

To: michael.valentino@amlaw.com; Darmofal, Courtney E.

[👍](#) [↩](#) [↶](#) [↷](#) [⋮](#)

Mon 7/18/2022 10:31 PM

Hi Michael. It was a pleasure speaking with you today. Per our chat, my colleague Courtney and I are representing BJ's Wholesale Club, Inc. in this case.

I understand that you will be sending along medical records when you have a moment and that you have provided BJ's with a **demand** of \$200,000 based on Plaintiff's surgery claims. I look forward to receipt of the records and to working with you.

Thank you. John

[↩](#) Reply

[↶](#) Reply all

[↷](#) Forward

EXHIBIT C



John M. McConnell | Partner
Direct 609.986.1326 | jmccconnell@goldbergsegalla.com

July 19, 2022

VIA REGULAR MAIL

Michael T. Valentino, Esq.
777 Terrace Avenue – Suite 504
Hasbrouck Heights, NJ 07604

Re: Ordonez v. BJ's Wholesale Club, Inc.

Dear Michael:

It was a pleasure speaking with you on July 18, 2022. As discussed, our office represents Defendant BJ's Wholesale Club, Inc in this case. Enclosed please find a Stipulation to Limit Damages. If your client does not sign and return the same, we will take steps to immediately remove this matter to the Federal Court. Thank you very much.

Sincerely,

s/John M. McConnell
John M. McConnell, Esq.

Enclosure

John M. McConnell, Esq. [028152005]

Goldberg Segalla LLP

Mailing Center: PO Box 580, Buffalo, NY 14201

301 Carnegie Center, Suite 200

Princeton, NJ 08540

609-986-1300

609-986-1301 (fax)

Attorneys for BJ's Wholesale, more properly pled as BJ's Wholesale Club, Inc.

| | |
|---|---|
| MARLIN LOOR ORDONEZ, Plaintiff v. BJ'S WHOLESALE, and JOHN DOE III, Defendants. | SUPERIOR COURT OF NEW JERSEY LAW DIVISION: HUDSON COUNTY DOCKET NO. HUD-L-002028-22 CIVIL ACTION STIPULATION TO LIMIT DAMAGES |
|---|---|

Plaintiff (hereinafter referred to as "Plaintiff") and Defendant named as BJ's Wholesale, more properly pled as BJ's Wholesale Club, Inc. hereby understand and agree to the following:

1. Defendant BJ's Wholesale Club, Inc. has the right, pursuant to 28 U.S.C. § 1441 to remove the above captioned matter to Federal Court;
2. Defendant BJ's Wholesale Club, Inc. is willing to forego this right in exchange for the agreement of Plaintiff to limit the damages which Plaintiff is entitled to recover in the above captioned matter, if any; and

3. In reliance upon the express agreement of Plaintiff and Defendant BJ's Wholesale Club, Inc. to

the limitation of damages set forth herein, Defendant BJ's Wholesale Club, Inc. will agree not to exercise its right to remove the above captioned matter to the Federal Court.

Therefore, on this _____ day of _____ 2022, Plaintiff and Defendant BJ's Wholesale Club, Inc. hereby stipulate and agree that the full amount and/or value of any and all damages (including

interest, fees and costs) to which Plaintiff may be entitled in the above captioned matter shall not exceed seventy-five thousand dollars and zero cents (\$75,000.00).

AGRAPIDIS & MAROULES, P.C.

GOLDBERG SEGALLA, LLP

Michael T. Valentino, Esq.
Attorney for Plaintiff

John M. McConnell, Esq.
Attorneys for Defendant BJ's Wholesale Club, Inc.

Date:

Date: